

110TH CONGRESS  
2D SESSION

# H. R. 6126

To amend chapter 1 of title 9 of United States Code with respect to arbitration.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2008

Ms. LINDA T. SÁNCHEZ of California (for herself, Ms. ROS-LEHTINEN, Mr. CONYERS, Mr. JOHNSON of Georgia, Mr. KUCINICH, and Mr. DELAHUNT) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend chapter 1 of title 9 of United States Code with respect to arbitration.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Fairness in Nursing  
5       Home Arbitration Act of 2008”.

6       **SEC. 2. AMENDMENTS.**

7       (a) ARBITRATION OF CERTAIN CONTROVERSIES.—

8       Chapter 1 of title 9, United States Code, is amended by  
9       adding at the end the following:

1 **“§ 17. Validity and enforceability**

2 “(a) DEFINITIONS.—For purposes of this section:

3 “(1) LONG-TERM CARE FACILITY.—The term  
4 ‘long-term care facility’ means—

5 “(A) any skilled nursing facility as defined  
6 in 1819(a) of the Social Security Act;

7 “(B) any nursing facility as defined in  
8 1919(a) of the Social Security Act; or

9 “(C) a public facility, proprietary facility,  
10 or facility of a private nonprofit corporation  
11 that—

12 “(i) makes available to adult residents  
13 supportive services to assist the residents  
14 in carrying out activities such as bathing,  
15 dressing, eating, getting in and out of bed  
16 or chairs, walking, going outdoors, using  
17 the toilet, or obtaining or taking medica-  
18 tion; and

19 “(ii) provides a dwelling place (which  
20 may contain a full kitchen and bathroom)  
21 for residents in order to deliver supportive  
22 services described in clause (i), that in-  
23 cludes common rooms and other facilities  
24 appropriate for the provision of such serv-  
25 ices to residents of the facility;

1 but excludes a facility, or portion of a facility,  
2 that either does not provide the services de-  
3 scribed in clause (i) or has as its primary pur-  
4 pose to educate or to treat substance abuse  
5 problems.

6 “(2) PRE-DISPUTE ARBITRATION AGREE-  
7 MENT.—The term ‘pre-dispute arbitration agree-  
8 ment’ means any agreement to arbitrate a dispute  
9 that arises after such agreement is made.

10 “(b) INVALIDITY OF PRE-DISPUTE ARBITRATION  
11 AGREEMENTS.—A pre-dispute arbitration agreement be-  
12 tween a long-term care facility and a resident of such facil-  
13 ity (or person acting on behalf of such resident, including  
14 a person with financial responsibility for such resident)  
15 shall not be valid or specifically enforceable.

16 “(c) APPLICATION TO AGREEMENTS.—This section  
17 shall apply to any pre-dispute arbitration agreement be-  
18 tween a long-term care facility and a resident of such facil-  
19 ity (or a person acting on behalf of such a resident, includ-  
20 ing a person with financial responsibility for such resi-  
21 dent), and shall apply to a pre-dispute arbitration agree-  
22 ment entered into either at any time during the admission  
23 process or at any time after the admission process.

24 “(d) APPLICATION OF FEDERAL LAW.—A determina-  
25 tion as to whether this chapter applies to an arbitration

1 agreement described in this section shall be determined  
2 under Federal law. Except as otherwise provided in this  
3 chapter, the validity or enforceability of such agreement  
4 shall be determined by the court, rather than the arbitra-  
5 tor, irrespective of whether the party opposing arbitra-  
6 tion challenges such agreement specifically or in conjunc-  
7 tion with any other term of the contract containing such  
8 agreement.”.

9 (b) CONFORMING AMENDMENT.—The table of sec-  
10 tions in chapter 1 of title 9, United States Code, is amend-  
11 ed by adding at the end the following:

“17. Validity and enforcement.”.

12 **SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

13 (a) EFFECTIVE DATE.—Except as provided in sub-  
14 section (b), this Act and the amendments made by this  
15 Act shall take effect on the date of the enactment of this  
16 Act.

17 (b) APPLICATION OF AMENDMENTS.—The amend-  
18 ments made by this Act shall apply with respect to agree-  
19 ments made, amended, altered, modified, renewed, or ex-  
20 tended on or after the date of the enactment of this Act.

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